

SENATE BILL REPORT

SHB 1008

As of March 19, 2009

Title: An act relating to small wind permitting standards.

Brief Description: Concerning permit requirements for small wind energy systems.

Sponsors: House Committee on Technology, Energy & Communications (originally sponsored by Representatives Morris, Chase, Upthegrove, Seaquist and Morrell).

Brief History: Passed House: 3/03/09, 97-0.

Committee Activity: Environment, Water & Energy: 3/18/09.

SENATE COMMITTEE ON ENVIRONMENT, WATER & ENERGY

Staff: William Bridges (786-7416)

Background: The process for siting and constructing small wind energy systems is generally governed by local ordinances. It may include building permits, conditional use permits, and related administrative hearings.

Energy facilities of any size that exclusively use alternative energy resources, such as wind power, can also opt-in to the Energy Facility Site Evaluation Council (EFSEC) review and certification process. An EFSEC site certification authorizes an applicant to construct and operate an energy facility in lieu of any other permit or document required by any other state agency or subdivision.

Summary of Bill: Authorizing Local Ordinances for the Siting of Small Wind Energy Systems. A local agency may, by ordinance, provide for the installation of a small wind energy system in its jurisdiction on parcels of land of at least one acre in size. The local agency may establish a process for the issuance of a conditional use permit for a small wind energy system. The ordinance may impose conditions on the installation of a small wind energy system, such as tower heights and setbacks.

Specifying Siting Conditions for Small Wind Systems and Meteorological Towers. A local agency that does not adopt a siting ordinance for siting small wind energy systems must approve applications for such systems if specified conditions are met concerning the following: (a) setbacks; (b) labeling of ground mounted electrical and control equipment; (c) underground placement of electrical wires; (d) artificial lighting; (e) paint colors; (f) visibility

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of signs; (g) construction and electrical codes; and (h) interconnection standards. Meteorological towers must be permitted under the same standards, permit requirements, restoration requirements, and permit procedures as a small wind energy system.

Requiring Building Permits for Small Wind Energy Systems. A building permit is required for the installation of a small wind energy system. The building permit application must be accompanied by a fee and a plot plan that includes the following: (a) property lines and physical dimensions of the property; (b) location, dimensions, and types of major existing structures on the property; (c) location of the proposed wind system tower; (d) the right-of-way of any public road that is contiguous with the property; (e) any overhead utility lines; (f) wind system specifications, including such things as rotor diameter, tower height, and tower type; (g) tower foundation blueprints or drawings; and (h) tower blueprint or drawing.

The local agency must issue or deny a building permit within one month of receiving an application. The local agency must notify and explain, in writing, any rejection of an application. A permit will expire if: (1) the small wind energy system is not installed and functioning within 24 months from the date of issuance; or (2) the small wind energy system is out of service or not used for a continuous 12-month period. Building permits must be conspicuously posted on the construction premises.

Defining Terms. Several terms are defined, including "local agency," which means any county, city, town, or local entity in the state with authority to enact construction or building ordinances or otherwise conduct construction or building permitting or zoning. "Small wind energy system" means a wind energy system that (1) is used to generate electricity; (2) has a nameplate capacity of 100 kilowatts or less; and (3) has a total height of 170 feet or less.

Appropriation: None.

Fiscal Note: Not requested.

Committee/Commission/Task Force Created: No.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony: PRO: Some local governments have out-of-date ordinances or no ordinances at all for the siting of wind systems. In addition, some local governments don't have any expertise to site these systems. All of these factors create a barrier for the development of wind systems, a renewable energy source. The bill is modeled on a Wisconsin statute that specifies the safest behavior for siting wind systems, and it will provide an expedited siting process for those local governments in Washington that do not have siting ordinances. A wind system outside the parameters of this bill must use the local siting process.

CON: The bill should expressly exclude the Columbia River Gorge Scenic Area. A 170 foot tower would be equivalent to a 17-story building. The Growth Management Act already requires special planning for general aviation airports. The bill should be amending the current RCW chapters concerning land use, cities, and counties; it should not create a new RCW chapter in the title that includes a variety of health and safety provisions. The

Municipal Research and Services Center should be tasked with developing a model ordinance on siting wind systems that local governments could use.

OTHER: The number one cause of aviation accidents in the U.S. is airspace obstructions. While more wind farms are desirable, the bill should address safety issues for airport zones. Local control should remain for the siting of wind systems near the flight paths of airports. The Washington Department of Transportation (WSDOT) recommends references to federal aviation regulations. Additional provisions should be considered for heliports, instrument landings, military airports, and the future extension of airports. In order to promote wind systems, the one-acre limit should be removed, height restrictions should be removed, underground wiring requirements should be removed, and aesthetic and view restrictions should be removed if not defined. The city of Seattle is concerned that state law not preempt its current efforts to develop an ordinance on wind systems. Local control should remain for electrical codes and other building permit considerations.

Persons Testifying: PRO: Representative Morris, prime sponsor.

CON: Nathan Baker, Friends of Columbia Gorge; Scott Merriman, Association of Washington Counties.

OTHER: John Dobson, Washington Pilots Association; Carrie Dolwick, NW Energy Coalition; Tim Gugerty, city of Seattle; David Ketchum, Washington State Community Airport Association; Carol Moser, Washington State Transportation Commission; John Shambaugh, WSDOT, Aviation.